

**LOW INCOME HOME ENERGY ASSISTANCE WEATHERIZATION  
GRANT AGREEMENT Grant Agreement Number: WL-015-0XX  
Low-Income Home Energy Assistance  
CDFA No.: 93.568  
100% Federal Funding  
Department of Health and Human Services  
Administration for Children and Families**

This Low Income Home Energy Assistance Weatherization Grant Agreement (“Agreement”), entered into by and between the **Indiana Housing and Community Development Authority** (“IHCDA”), and **Community Action Agency** (“Sub-grantee”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

**1. PURPOSE**

The purpose of this Agreement is to memorialize an award of funding to Sub-grantee so that Sub-grantee may provide weatherization services for low-income households in the Weatherization Assistance Program (“WAP”) being administered by IHCDA. Funding for WAP is provided through the Department of Housing and Human Services (“HHS”) through the Federal Low-Income Home Energy Assistance Program (“LIHEAP”) (42 U.S.C. § 8621 *et seq.*, § 8626a, § 6861, 1397a(d), 45 C.F.R. § 96.72, and 45 C.F.R. § 96.85).

**2. GENERAL TERMS**

- A. Upon execution, this Agreement shall become effective as of October 1, 2014 and remain in effect through September 30, 2015 (the “Term”).
- B. Sub-grantee shall be reimbursed by IHCDA for allowable costs incurred by Sub-grantee in conducting activities in accordance with the 2014 Weatherization Assistance Program Policy and Procedures Manual, as amended from time to time (“the Weatherization Policy and Procedure Manual”), this Agreement, and the financial summary included herewith as Attachment A, and the 2015 LIHEAP Budget Form submitted by Sub-grantee and approved by IHCDA (“Budget”), all of which is incorporated herein by reference. Sub-grantee may be reimbursed for activities conducted during the Term in an amount not to exceed the Total Grant Amount specified in Attachment A.
- C. Sub-grantee agrees to comply with all statements, assurances, and provisions set forth in any proposal, application for funding, program narrative, plan, budget, or other document submitted by Sub-grantee and approved by IHCDA for the purpose of obtaining funding through this Agreement.
- D. Any inconsistency or ambiguity in this Agreement shall be resolved by giving precedence in the following order: (1) this Agreement, (2) attachments to this Agreement prepared by the IHCDA, and (3) any proposal, program, plan, or budget,

submitted by Sub-grantee, for the purpose of obtaining funding through this Agreement.

- E. This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana. If any term, covenant, condition, or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect.
- F. IHCDCA will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1. Notwithstanding the provisions contained in I.C. 5-17-5, the parties stipulate and agree any liability resulting from IHCDCA's failure to make prompt payment shall be based solely on the amount of funding originating from IHCDCA and shall not be based on funding from federal or other sources.
- G. Sub-grantee shall request and receive approval from IHCDCA for any subcontracts awarded pursuant to this Agreement in an amount greater than Twenty-five Thousand Dollars (\$25,000.00). Sub-grantee shall require any subcontractor to comply with the provisions set forth in this Agreement. Further, Sub-grantee shall remain responsible to IHCDCA for the performance of part or all of this Agreement by any subcontractor, and shall monitor the performance of any subcontractor. Sub-grantee agrees to enter into written agreements with all subcontractors and to provide copies of all subcontracting agreements to IHCDCA upon request. Sub-grantee further agrees to notify IHCDCA of a breach of any of provisions in this Agreement by a subcontractor and to discontinue any agreement with the specified subcontractor in the event of such a breach.

### **3. SPECIFIC TERMS**

- A. During the Term, Sub-grantee shall weatherize eligible dwelling units in compliance with the terms of this Agreement and Attachment A, as well as any Federal or State statutes or regulations pertaining thereto, including but not limited to 42 U.S.C. § 8621 *et seq.*; I.C. § 4-12-1-14.2; and 45 C.F.R. Part 96; the requirements specified in Office of Management and Budget ("OMB") Circular A-110, now reported at 2 C.F.R. Part 215, or OMB Circular A-122, now reported at 2 C.F.R. Part 230; and all other applicable Federal, State, and local laws, rules, regulations, administrative procedures, guides, manuals, program rules, regulations, and definitions, and any amendments thereto, in performing its obligations under this Agreement. Sub-grantee specifically acknowledges that it must comply with all applicable Federal, State, and local laws, rules, and regulations pertaining to wages, hours, and conditions of employment, and all health and safety standards.

- B. Sub-grantee shall perform weatherization services in accordance with the State of Indiana's approved LIHEAP State Plan, Indiana Weatherization Field Guide, Weatherization Policies and Procedures Manual, State Weatherization directives, and any amendments thereto (collectively "State Weatherization Plan and Directives"). Upon completion of the document aligning Indiana's Weatherization Field Guide and DOE's Standard Work Specifications ("SWS"), The Sub-grantee shall abide by and perform all work in accordance with said document, as this document will supersede the Indiana Weatherization Field Guide. The Sub-grantee's signature on this Agreement signifies its agreement to follow all work standards as outlined in the documents referenced in this paragraph.
- C. Sub-grantee agrees to weatherize homes as specified in Sub-grantee's plan of services, and any amendments thereto.
- D. Sub-grantee shall comply with all of the training and certification requirements that are specified in the State Weatherization Plan and Directives.
- E. Sub-grantee shall provide in-home energy education regarding reducing energy consumption and health and safety concerns to the persons who receive the weatherization services pursuant to this Agreement.
- F. If, after a review of Sub-grantee's performance, IHCDCA finds that Sub-grantee has exceeded its specified performance estimates, and if IHCDCA has sufficient funding available to it to reimburse Sub-grantee for additional work, IHCDCA may offer reallocated funds to Sub-grantee.
- G. All reallocations shall be accomplished in accordance with the provisions of Section 7 of this Agreement.
- H. Sub-grantee shall select subcontractors in a manner that assures competitive procurement of services in compliance with all applicable laws, including but not limited to 10 C.F.R. 600.236. Neither Sub-grantee nor any subcontractor of Sub-grantee shall be reimbursed until such time as Sub-grantee has performed an inspection of the work performed by the subcontractor and has determined in writing that any such work has been completed in a satisfactory manner.
- I. In making any procurement or entering into any contract that requires the expenditure of funds provided pursuant to this Agreement, Sub-grantee shall adhere to the provisions of applicable Federal regulations, OMB Circular A-110, now reported at 2 C.F.R. Part 215, OMB Circular A-102, and IHCDCA policies regarding procurement.
- J. Sub-grantee acknowledges and agrees that funds provided through this Agreement shall not be used for the purchase or improvement of land, or for the purchase, construction, or permanent improvement (other than low-cost residential

weatherization or other energy-related home repairs) of any building or other facility.

- K. Sub-grantee shall no longer be able to claim funds through this grant for the replacement of refrigerators in homes weatherized.
- L. Sub-grantee acknowledges and agrees that it must maintain a maximum allowable average cost per dwelling under Base Program Operations (line item .5) in an amount not to exceed Six Thousand and 00/100 Dollars (\$6,000.00). Sub-grantee acknowledges and agrees that it must maintain a maximum allowable average cost per dwelling under Mechanical Operations (line item .6) in an amount not to exceed Three Thousand and 00/100 Dollars (\$3,000.00). Sub-grantee acknowledges and agrees that it must maintain a maximum allowable average cost per dwelling under Capital Intensive Operations (line item .7) in an amount not to exceed Nine Thousand and 00/100 Dollars (\$9,000.00).
- M. Sub-grantee acknowledges and agrees that the funds provided through this Agreement shall be used to supplement, and not supplant, State or local funds and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out activities specified in this Agreement.
- N. No subcontractor of Sub-grantee shall be paid for any work performed until such time as Sub-grantee has performed an inspection of all of the weatherization work completed and has determined that any such work has been performed in a satisfactory manner ("Final Inspection"). Where subcontractors are utilized, the cost of materials shall be separated from the cost of associated labor in billings submitted to Sub-grantee by the subcontractor.
- O. In conducting activities pursuant to this Agreement, Sub-grantee must secure, to the maximum extent practicable, the services of volunteers, training participants, public service employment workers, and participants in other Federal or State of Indiana training and employment programs, to work under the supervision of qualified supervisors.
- P. Sub-grantee shall ensure that all Weatherization staff and sub-contractors who perform or provide Weatherization services to client homes receive and adhere to all standards as outlined in Indiana's Weatherization Field Guide, Indiana's Weatherization Policy and Procedures Manual, the Department of Energy Weatherization Assistance Program State Plan for Indiana and other State Weatherization directives as applicable. Upon completion of the document aligning Indiana's Weatherization Field Guide and DOE's Standard Work Specifications (SWS), Sub-grantee shall abide by and perform all work in accordance with said document. The Sub-grantee's signature on this agreement signifies its responsibility to follow all work standards as outlined in the

documents referenced in this paragraph as well as its responsibility to ensure that its Weatherization staff and sub-contractors receive and review these documents and use them to guide the Weatherization work performed in client homes by them.

- Q. Sub-grantee shall include language in sub-contractor contracts detailing that all Weatherization services will be performed in accordance with the standards outlined within the documents as described in Subsections B and P of Section 3 of this Agreement.

#### **4. ADMINISTRATION OF FUNDS**

- A. Funding shall be paid to Sub-grantee as a reimbursement for authorized expenses incurred for WAP activities funded pursuant to this Agreement, and in accordance with the fiscal policies and procedures of the IHCD. Following the expiration or termination of this Agreement, Sub-grantee shall reconcile all costs incurred through this Agreement pursuant to instructions in Paragraph (H)-(J) below. Sub-grantee must maintain and implement written procedures to minimize the time elapsing between the transfer of funds to Sub-grantee and Sub-grantee's issuance or redemption of checks, warrants, or payments by other means for program purposes.
- B. The amount of funding from all appropriate Federal sources that Sub-grantee uses for planning and administration of WAP activities funded under this Agreement shall be a percentage set by IHCD. In no event, however, shall the total amount of funding paid to Sub-grantee under the Activity Description of "Administration" exceed 6.753% of the funding that is actually expended by Sub-grantee under this Agreement. Sub-grantee shall pay from non-Federal sources the remaining costs of planning and administering the activities funded under this Agreement.
- C. The parties agree that IHCD's payment through this Agreement is subject to and conditioned upon the availability of funds. If funds are reduced during the term of this Agreement, IHCD is under no obligation to make payment hereunder, except to the extent that funds are available.
- D. IHCD may, in its sole discretion, de-obligate and/or re-distribute all or any portion of the Total Grant Amount if the Sub-grantee fails to meet applicable program requirements or if the Sub-grantee's expenditures for production and number of completions are substantially below the network's average.
- E. IHCD will review Sub-grantee's weatherization production completions and its expenditures under this Agreement. If Sub-grantee's expenditures for production fall substantially below the schedule of production contained in Sub-grantee's approved Budget (the "Standard") and Sub-grantee has not addressed the shortfall

with IHCD and developed a plan to raise its performance up to the Standard, then IHCD may, at its sole discretion, decrease Sub-grantee's Total Grant Amount and reallocate the remaining unexpended funds to another sub-grantee.

- F. The Sub-grantee administer its program to comply with the following benchmarks as identified in the LIHEAP Budget Form:
  - a. Complete monthly production projections by December 31, 2014
  - b. Complete monthly production projections by March 30, 2015
  - c. Complete monthly production projections by June 30, 2015.
- G. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Sub-grantee in writing unless a specific waiver has been obtained from IHCD Controller. No payments will be made in advance of receipt of the goods or services that are the subject of this Agreement except as permitted by I.C. 4-13-2-20.
- H. Sub-grantee shall pay all vendors, subcontractor and sub-grantee invoices within forty-five (45) days of the date of receipt. For the purposes of this Agreement, "pay" shall mean the act of depositing checks in the mail for delivery to the subcontractor or sub-grantee or pick-up of checks by the vendor, subcontractor or sub-grantee from the Sub-grantee.
- I. Sub-grantee shall maintain financial and accounting records which identify costs attributable to each Activity Description specified on Attachment A. Sub-grantee shall further maintain annual, written, cost methodologies, which identify procedures for attributing costs to each Activity Description. More restrictive fiscal accountability may be required of Sub-grantee by IHCD should IHCD determine that Sub-grantee is financially unstable, has a history of poor accountability, or has a management system which does not meet the standards required by the State of Indiana, IHCD, or the United States Government.
- J. Sub-grantee shall maintain the funds received from IHCD pursuant to Attachment A and this Agreement in an identifiable bookkeeping account and shall use the funds solely for the purposes set forth in this Agreement, in accordance with the terms of this Agreement and Attachment A.
- K. Sub-grantee agrees to follow generally accepted accounting procedures and practices which sufficiently and properly reflect all costs incurred by Sub-grantee pursuant to this Agreement. Sub-grantee shall manage all funds received through this Agreement in accordance with applicable cost principles identified in OMB Circulars A-87 (Government Entities) or A-122 (Nonprofit Organizations), now reported at 2 C.F.R. §§ 225, 230.
- L. Sub-grantee shall submit to IHCD, at least monthly, properly completed claims

for reimbursement of costs incurred by Sub-grantee under this Agreement during the prior month. Claims shall be submitted using IHCDAs online claims system and pursuant to instructions issued by IHCDAs.

- M. No costs may be incurred against this Agreement by Sub-grantee before or after the Term specified in Section 2. Claims should be submitted to IHCDAs within sixty (60) calendar days after the date services are provided or, as applicable, costs are incurred. All final claims and reports must be submitted to IHCDAs within forty five (45) calendar days after the expiration or the termination of this Agreement, or IHCDAs may deny payment.
- N. Sub-grantee shall liquidate all outstanding obligations properly incurred during the Term no later than forty five (45) calendar days after the expiration or termination of this Agreement.
- O. Sub-grantee shall, upon written demand by IHCDAs, be required to repay IHCDAs all sums paid by IHCDAs to Sub-grantee for which adequate fiscal and/or service delivery documentation is not in existence for any time period audited. If an audit or review of Sub-grantee results in an audit exception or cost disallowance, IHCDAs shall have the right to set off such amount against current or future allowable claims, demand cash repayment, or withhold payment of current claims in a like amount pending resolution between the parties of any disputed amount.
- P. IHCDAs may withhold payment to Sub-grantee if a claim submitted by Sub-grantee is inaccurate or if Sub-grantee has not complied with the claim preparation instructions issued by IHCDAs. IHCDAs will notify Sub-grantee of any error in the claims submitted so Sub-grantee may make the corrections or revisions necessary for payment.

#### **5. INELIGIBLE EXPENSES**

The Sub-grantee shall promptly repay, out of non-federal resources, IHCDAs for any funds, under this Agreement, that it utilizes for expenses that are deemed “ineligible” by any of the following: IHCDAs, HHS, “DOE”, 45 CFR 96.80, an A-133 audit, or the Weatherization Policy and Procedure Manual.

#### **6. AUDITS, RECORDS, REPORTS, AND INSPECTIONS**

- A. If Sub-grantee expends \$500,000 or more in federal awards during the Sub-grantees fiscal year it must submit its single audit to the IHCDAs within the earlier of thirty (30) days after receipt of the auditors report(s), or nine (9) months after the end of the audit period.

If the Sub-grantee expends less than \$500,000 in federal awards it must submit its audited financial statements or 990 (IRS Form 990, Return of Organization Exempt From Income Tax) to IHCDAs within the earlier of thirty (30) days after

receipt of the auditor's report(s), or nine (9) months after the end of the audit period.

- B. IHCDA Approved Auditor. All auditors performing under OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations" for Sub-grantee must be qualified by the IHCDA in order for IHCDA to accept the A-133 submitted by the Sub-grantee. The Sub-grantee must submit an email to A133@ihcda.in.gov in order to ensure that its auditor meets IHCDA's requirements and/or receive a copy of IHCDA's criteria for auditors.
- C. Sanctions: If Sub-grantee does not adhere to the policies referenced in subparagraphs A and B of this section, at IHCDA's sole discretion, may take appropriate action using sanctions such as:
  - (a) Withholding a percentage of this funding until the audit is completed satisfactorily;
  - (b) Withholding or disallowing claims;
  - (c) Suspending all funding from any IHCDA awards until the audit is conducted; or
  - (d) Terminating this Agreement.
- D. Sub-grantee shall maintain those books, records, and documents, including, but not limited to, payroll records, banking records, accounting records, and purchase orders, which are sufficient to document Sub-grantee's financial activities and Sub-grantee's claims for reimbursement under this Agreement. Further, Sub-grantee shall create, maintain, and provide to IHCDA such other statistical and program reports as are required by the laws, regulations, and policies of the State of Indiana, IHCDA, or the United States Government, including any close-out reports required by IHCDA.
- E. The parties agree that prompt compliance by Sub-grantee with a request by IHCDA to submit program and financial documentation is critical to this Agreement and that a failure of Sub-grantee to comply with any such request could result in immediate suspension of payments hereunder or termination of this Agreement by IHCDA.
- F. Sub-grantee shall maintain all records relative hereto during the Term of this Agreement and for a period of three (3) years from the date Sub-grantee submits to IHCDA its final financial status report pursuant to this Agreement, or one year from the resolution of any outstanding administrative, program or fiscal audit question, or legal action, whichever is later. The retention period for records

relating to any equipment authorized to be purchased through this Agreement begins on the date of the disposition, replacement, or transfer of such equipment.

- G. Sub-grantee shall not dispose of, replace, or transfer any equipment authorized to be purchased with funding obtained through this Agreement without the express written approval of IHCD A.
- H. The parties agree that IHCD A and the United States Government shall have the right to enter the premises of Sub-grantee or any subcontractor of Sub-grantee and inspect or audit any records and property maintained by Sub-grantee or its subcontractors in connection with this Agreement. Sub-grantee and its subcontractors shall make all books, records, and documents that relate to their activities under this Agreement available for inspection, review, and audit when requested by authorized representatives of IHCD A or the United States Government.
- I. The Sub-grantee must provide access to IHCD A, the HHS, the U.S. Department of Energy (“DOE”), the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Sub-grantee which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions. The rights of access in this section must not be limited to the required retention period but shall last as long as the records are retained. The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, sub-grantees are not required to permit public access to their records.
- J. Sub-grantee shall ensure the cooperation of its employees, officers, board members, and subcontractors in any review, audit, or inspection conducted by authorized representatives of IHCD A, the State of Indiana, or the United States Government.
- K. Sub-grantee agrees that IHCD A has the right to make recommendations and findings in connection with any program or fiscal audit of Sub-grantee’s operations related to this Agreement, and Sub-grantee agrees to comply with any corrective actions specified by IHCD A, within the time limits established by IHCD A.
- L. Following any IHCD A monitoring visit to Sub-grantee, IHCD A will provide a written report to Sub-grantee. IHCD A’s report may contain findings, concerns, suggestions and/or specific directions for corrective action by Sub-grantee. In the event that specific corrective action is required, Sub-grantee will have forty-five (45) days from the receipt of the directions to comply, unless a different time period for correction is specified by IHCD A. A failure of Sub-grantee to comply with IHCD A’s specific directions will be treated as a breach of this Agreement.

In the case of a dispute, IHCD A and Sub-grantee will meet at the earliest convenience to resolve the issue in question.

- M. Sub-grantee shall, on an annual basis, compile a schedule of all inventory, capital equipment, and any unusable property in Sub-grantee's possession purchased with Federal or State funds through this Agreement. The schedule shall be maintained at Sub-grantee's office(s) and provided to IHCD A upon request. The schedule shall include:
1. A brief description of the property;
  2. A manufacturer's serial number, model number, Federal stock number, national stock number, or other identification number of the property;
  3. The source of the property, including the award number;
  4. Whether title vests in the Sub-grantee or the Federal government;
  5. The acquisition date (or date received, if the equipment was furnished by the Federal government) and cost of the property;
  6. Information from which one can calculate the percentage of Federal participation in the cost of the equipment (not applicable to equipment furnished by the Federal government);
  7. The location and condition of the property and date the information was reported;
  8. Unit acquisition cost; and
  9. Any ultimate disposition data including the date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal awarding agency for its share.
- N. Upon request, Sub-grantee shall submit all relevant depreciation schedules applicable to the audit period at the time Sub-grantee submits its independent audit report.
- O. Sub-grantee further agrees to comply with any additional requirements that IHCD A may deem necessary with respect to the management and distribution of equipment purchased pursuant to this Agreement.
- P. Sub-grantee may not purchase or maintain inventory which exceeds an amount necessary for the performance of this Agreement. Further, in addition to the inventory controls mandated by the OMB Circulars A-110, The Common Rule, A-122, and A-87, any discrepancy in Sub-grantee's inventory which exceeds

\$100 must be reported to IHCDCA along with a written description of how the lost or damaged inventory item(s) will be replaced.

## **7. MODIFICATION**

- A. The parties agree that due to the uncertain availability of State and/or Federally allocated funds, the Total Grant Amount specified in Attachment A of this Agreement may be unilaterally decreased by IHCDCA immediately upon Sub-grantee's receipt of written notice. Notice shall be delivered to Sub-grantee at the address specified in Attachment A, by certified or overnight mail, or at IHCDCA's option by verified electronic mail.
- B. Sub-grantee shall notify IHCDCA within ten (10) days of any termination of services reimbursable pursuant to this Agreement. In the event of such termination, IHCDCA may reduce the funding to Sub-grantee set forth in Attachment A in accordance with the procedures specified in Paragraph C of this section. Notice shall be provided by certified or overnight mail.
- C. IHCDCA may conduct periodic reviews of the utilization of funds provided by IHCDCA pursuant to this Agreement. After such a review, IHCDCA may decide to reduce or redistribute the funding available to Sub-grantee. IHCDCA shall give ten (10) days-notice of its decision to reduce or redistribute the funding, which notice shall include a statement of reasons for such reduction or redistribution. Sub-grantee may, within the ten (10) day notice period, present to IHCDCA written documentation explaining why such a reduction or redistribution should not become final. IHCDCA retains the right, after a review of such documentation, either to implement or to modify its proposed actions.
- D. In accordance with Attachment A, should IHCDCA or Sub-grantee determine that budgeted amounts for any Activity Description require modification, such changes may not require the execution of a formal amendment, but may be accomplished by submission of an formal budget modification from a Sub-grantee and approved by IHCDCA, so long as the changes do not increase the Grant Amount specified in Attachment A.
- E. Should IHCDCA decide to alter its methodology for allocating funds among its weatherization sub-grantees as set forth in IHCDCA's State Weatherization Plan, IHCDCA agrees that, pursuant to 42 U.S.C. § 8624 subsection (c), each substantial revision thereof shall be made available for public inspection in such a manner as will facilitate timely and meaningful review of, and comment upon, such plan or substantial revision.
- F. This Agreement may be renewed under the same terms and conditions, submitted to approval of the IHCDCA Board of Directors, in compliance with Indiana Code § 5-22-17-4. The term of the renewed Agreement may not be longer than the term of the original Agreement.

- G. Except as set forth in this Section 7, the parties acknowledge that this Agreement is subject to modification by mutual agreement of the parties. Such modifications, if any, shall be set forth in writing and shall become a part of this Agreement upon execution by the parties. Such modifications shall also be subject to review upon any subsequent renewal of this Agreement; however, nothing in this Agreement shall be construed as a commitment to execute future Agreements with Sub-grantee or to extend this Agreement in any way.

## **8. SUSPENSION AND TERMINATION**

- A. If either party has failed to comply with the terms of this Agreement, the other party may, upon written notice to the party in breach, suspend services or payment in whole or in part or terminate this Agreement. The notice of suspension or termination shall state the reasons for the suspension or termination, any corrective action required of the party in breach, and the effective date. Notice shall be provided by certified or overnight mail.
- B. If IHCDA determines that any breach of this Agreement by Sub-grantee endangers the life, health, or safety of its employees or agents, or applicants for or recipients of services under this Agreement, IHCDA may terminate this Agreement by orally notifying Sub-grantee of the termination, followed by the mailing of written notification thereof within three (3) business days specifying the reasons for the termination. Termination pursuant to this paragraph shall become effective at the time of the oral notification.
- C. When the Executive Director of IHCDA makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Agreement, the Agreement shall be canceled. Such determination by the Executive Director that funds are not appropriated or otherwise available shall be final and conclusive.
- D. Sub-grantee agrees that IHCDA may terminate this Agreement if Sub-grantee ceases doing business for any reason. IHCDA will notify Sub-grantee of the termination, in writing, by registered or certified mail. The termination shall be effective from the date Sub-grantee ceases doing business.
- E. The parties acknowledge and agree that this Agreement may be terminated immediately by either party should the other party attempt to assign, transfer, convey, or encumber the Agreement in any way. Any notice of termination pursuant to this paragraph shall be provided in writing to the other party, by registered or certified mail.
- F. This Agreement may be suspended and/or terminated immediately if Sub-grantee has committed fraud or has misused or misappropriated funds received under this

Agreement or another agreement between the Sub-grantee and the IHCD. In this event IHCD may de-obligate and/or re-distribute all or any portion of the Total Grant Amount to another sub-grantee. Further, Sub-grantee's breach or default with respect to other agreements or obligations related to WAP shall constitute a material breach of this Agreement.

- G. This Agreement may be terminated, in whole or in part, by the IHCD whenever, for any reason, the IHCD determines that such termination is in the best interest of the IHCD. Termination shall be effected by delivery to the Sub-grantee of a Termination Notice, specifying the extent to which such termination becomes effective. The Sub-grantee shall be compensated for completion of the services or activities properly performed prior to the effective date of termination. The IHCD will not be liable for activities or services performed after the effective date of termination.
- H. Sub-grantee shall provide written notice to IHCD of any change in Sub-grantee's address, legal name, or legal status including, but not limited to, a sale or dissolution of Sub-grantee's business. IHCD reserves the right to terminate this Agreement should Sub-grantee's legal status change in any way. Termination pursuant to this paragraph shall be effective from the date of the change in Sub-grantee's legal status. Notice shall be provided by certified or overnight mail.
- I. The Sub-grantee and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State, as set forth in Indiana Code § 4-2-6 et seq., the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Sub-grantee is not familiar with these ethical requirements, the Sub-grantee should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <<<<http://www.in.gov/ethics/>>>>. If the Sub-grantee or its agents violate any applicable ethical standards, IHCD may, in its sole discretion, begin the appropriate administrative proceeding to terminate this Agreement. In addition, the Sub-grantee may be subject to penalties under Indiana Code § 4-2-6-12.
- J. If this Agreement is terminated pursuant to any paragraph in this section, Sub-grantee shall remit to IHCD, within forty-five (45) days of such termination, any unexpended funds and such other payments received by Sub-grantee determined to be due IHCD. The action of IHCD in accepting any such amount shall not constitute a waiver of any claim that IHCD may otherwise have arising out of this Agreement.
- K. Upon expiration of any fiscal year period specified in Attachment A, or termination of this Agreement, IHCD may require that all documents including, but not limited to, client files, data, studies, and reports prepared by Sub-grantee pursuant to this Agreement, and all property purchased by Sub-grantee with IHCD, state, or Federal funds under this Agreement, be delivered to IHCD.

IHCDA may require the transfer of records or property to its own offices or to a designated successor.

- L. IHCDA shall provide a full and detailed accounting of any property or records taken from Sub-grantee and shall make any records available to Sub-grantee as necessary for subsequent audit. IHCDA and Sub-grantee may negotiate amounts of reimbursement related to Sub-grantee's expenses for a period of closeout. In no event, however, shall IHCDA reimburse Sub-grantee an amount exceeding the Grant Amount set forth in Attachment A of this Agreement.
- M. If this Agreement is terminated for any reason, IHCDA shall only be liable for payment for services properly provided prior to the effective date of termination. IHCDA shall not be liable for any costs incurred by Sub-grantee in reliance upon this Agreement subsequent to the effective date of termination.
- N. Sub-grantee acknowledges and agrees that due to programmatic changes required in the WAP by IHCDA, the DOE, and/or HHS, IHCDA may terminate this Agreement at the end of any fiscal year period specified on Attachment A upon sixty (60) days written notice to Sub-grantee specifying the reasons for termination.
- O. In the event this Agreement is terminated pursuant to this section, the Sub-grantee shall cooperate with IHCDA to ensure a smooth transition of services to recipients of the WAP.

#### **9. CONFIDENTIALITY**

The Sub-grantee understands and agrees that data, materials, and information disclosed to the Sub-grantee may contain confidential and protected information. The Sub-grantee covenants that data, material and information gathered, based upon or disclosed to the Sub-grantee for the purpose of this Agreement, will not be disclosed to or discussed with third parties without the prior written consent of IHCDA.

The parties acknowledge that the services to be performed by Sub-grantee for IHCDA under this Agreement may require or allow access to data, materials, and information containing Social Security numbers or other personal information maintained by or on behalf of IHCDA in a computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Sub-grantee and IHCDA agree to comply with the provisions of I.C. 4-1-10 and I.C. 4-1-11. If any Social Security number(s) or personal information (as defined in I.C. 4-1-11-3) is/are disclosed by Sub-grantee, Sub-grantee agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Agreement.

#### **10. INDEMNIFICATION**

The Sub-grantee agrees to indemnify, defend, and hold harmless IHCDA and the State of Indiana, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses arising from or connected with any act or omission of the

Sub-grantee and/or its subcontractors, if any, in the performance of this Agreement. IHCD shall **not** provide such indemnification to the Sub-grantee.

#### **11. INDEPENDENT CONTRACTOR**

Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Except as provided in **Section 10**, neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Sub-grantee shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Sub-grantee's employees.

#### **12. INSURANCE AND BONDING**

- A. Sub-grantee agrees to provide general liability insurance coverage relative hereto in the minimum amount of \$750,000 for bodily injury and property damage. Sub-grantee shall also secure insurance in amounts sufficient to reimburse Sub-grantee for damage to any property purchased with State or Federal funds.
- B. If Sub-grantee is a department or division of the State of Indiana, or of a county, municipal, or local government, the foregoing insurance coverages shall not be required; however, Sub-grantee may elect to provide such coverages.
- C. Sub-grantee agrees to provide Workers' Compensation and Unemployment Compensation as required by law.
- D. Upon request, Sub-grantee must provide IHCD with Certificates of Insurance that illustrate the types of coverage, limits of liability, and expiration dates of Sub-grantee's policies.
- E. Sub-grantee shall provide a bond or insurance coverage for all persons who will be handling funds or property received or disbursed as a result of this Agreement, or who may carry out the duties specified in this Agreement, in an amount equal to one-half of the total annual funding provided to Sub-grantee through IHCD or \$250,000, whichever is less, to be effective for the period of this Agreement plus three (3) years for purposes of discovery. Sub-grantee's coverage must provide protection against losses resulting from criminal acts and wrongful and negligent performance of the duties specified herein, and it must specify the IHCD as an obligee or additional insured. Sub-grantee shall immediately notify IHCD if said bond or insurance is cancelled or modified in amount. In the event of cancellation, IHCD shall make no further disbursements until certification is provided by a bonding or insurance company that the provisions set forth in this section have been satisfied. In the event such verification is not received by IHCD within ten (10) days of the notice of cancellation, Sub-grantee agrees to return to IHCD the balance of all monies paid to Sub-grantee by IHCD under this Agreement.

- F. Sub-grantee may incur costs to obtain a Pollution Occurrence Rider to the general liability coverage as part of this agreement.

### **13. FEES**

Sub-grantee and its subcontractors shall impose no fees upon the recipients of any services provided through this Agreement except as explicitly authorized by IHCDA.

### **14. PROGRAM INCOME**

Any program income earned by Sub-grantee from activities conducted with funds obtained through this Agreement must be maintained and expended by Sub-grantee in the program from which the funding was derived, in accordance with applicable State and Federal program rules, regulations, and policies. Sub-grantee must maintain and provide to IHCDA an accounting of all program income earned as a result of funds being provided through this Agreement.

### **15. LICENSING STANDARDS**

Sub-grantee agrees to comply, and assures that its employees and subcontractors will comply, with all applicable licensing standards, accrediting standards, and any other standards or criteria which any governmental entity requires of Sub-grantee or its subcontractors to deliver services pursuant to this Agreement. IHCDA shall not be required to reimburse Sub-grantee for any services performed when Sub-grantee or its employees or subcontractors are not in compliance with applicable licensing, certifying, or accrediting standards. If licensure, certification, or accreditation expires or is revoked, Sub-grantee agrees to notify IHCDA immediately thereof.

### **16. WORK STANDARDS**

Sub-grantee shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards.

### **17. ELIGIBILITY AND APPEALS**

- A. The parties agree that the eligibility of individuals who may be provided services with funding through this Agreement shall be determined in accordance with State and Federal eligibility criteria and operating procedures.
- B. IHCDA and Sub-grantee agree to maintain procedures in accordance with State and Federal regulations to promptly address complaints and appeals between the parties, and of applicants for and recipients of services, and both parties agree to cooperate fully with the processing of any complaint or appeal.

### **18. NON-DISCRIMINATION**

- A. Pursuant to the Indiana Civil Rights Law, specifically including I.C. 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Sub-grantee covenants that it shall not discriminate against any employee or applicant for employment relating to this Agreement with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or

indirectly related to employment, because of the employee's or applicant's race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Sub-grantee certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services. Breach of this section may be regarded as a material breach of this Agreement, but nothing in this paragraph shall be construed to imply or establish an employment relationship between the IHCD and any applicant or employee of the Sub-grantee or any subcontractor. IHCD is a recipient of federal funds, and therefore, where applicable, Sub-grantee and any subcontractors shall comply with requisite affirmative action requirements, including reporting, pursuant to 41 CFR Chapter 60, as amended, and Section 202 of Executive Order 11246. IHCD and the Sub-grantee shall comply with Section 202 of Executive Order 11246, as amended by Executive Order 11375, and as supplemented by 41 C.F.R. § 60-250, and 41 C.F.R. § 60-741, which are incorporated herein by reference.

- B. Sub-grantee further agrees to comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), the Drug Abuse Prevention and Treatment Amendments of 1978 (21 U.S.C. § 1101 et seq.), the Public Health Service Act of 1944 (42 U.S.C. §§ 290dd through 290dd-2), and all other non-discrimination regulations of the United States Government to ensure that no person shall, on the grounds of race, age, color, religion, sex, disability, national origin, ancestry, or status as a veteran, be excluded from participating in or denied the benefit of Sub-grantee's services, or otherwise be subjected to discrimination under any program or activity for which Sub-grantee or its subcontractors receive, directly or indirectly, Federal or state financial assistance, and Sub-grantee agrees to immediately take measures to effectuate this provision.
- C. The parties agree that any publicity release or other public reference, including media releases, informational pamphlets, etc., relative to the services provided under this Agreement, will clearly state that all services are provided without regard to race, age, color, religion, sex, disability, national origin, ancestry, or status as a veteran.

## **19. POLITICAL ACTIVITY**

Sub-grantee certifies that the funding provided by IHCD through this Agreement shall not be used to further any type of political or voter activity. Sub-grantee further agrees to comply with applicable provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7326) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

## **20. DRUG-FREE WORKPLACE CERTIFICATION**

- A. The Sub-grantee hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Sub-grantee will give written notice to IHCDA within ten (10) days after receiving actual notice that the Sub-grantee or an employee of the Sub-grantee in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Agreement and/or debarment of contracting opportunities with IHCDA for up to three (3) years.
- B. In addition to the provisions of the above paragraph, if the total grant amount set forth in this Agreement is in excess of \$25,000.00, the Sub-grantee hereby further agrees that this Agreement is expressly subject to the terms, conditions, and representations of the following certification:

The Sub-grantee certifies and agrees that it will provide a drug-free workplace by:

1. Publishing and providing to all of its employees a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Sub-grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Establishing a drug-free awareness program to inform employees of (i) the dangers of drug abuse in the workplace; (ii) Sub-grantee's policy of maintaining a drug-free workplace; (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace.
3. Notifying all employees in the statement required by subparagraph (a) above that as a condition of continued employment the employee will (i) abide by the terms of the statement; and (ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
4. Notifying in writing the IHCDA and the Indiana Department of Administration within ten (10) days after receiving notice from an employee under subparagraph (3) above, or otherwise receiving actual notice of such conviction.
5. Within thirty (30) days after receiving notice of a conviction under subparagraph (3) above, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (i) take appropriate personnel action against the employee, up to and including termination; or (ii) require such employee to satisfactorily participate in a drug abuse assistance or

rehabilitation program approved for such purpose by a federal, state, or local health, law enforcement, or other appropriate agency.

6. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (1) through (5) above.

## **21. COMPLIANCE WITH LAWS**

- A. The Sub-grantee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, without limitation, and the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this Agreement shall be reviewed by the State and the Sub-grantee to determine whether the provisions of this Agreement require formal modification.
- B. The Sub-grantee certifies by entering into this Agreement that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State. The Sub-grantee agrees that any payments currently due to the State may be withheld from payments due to the Sub-grantee. Additionally, payments may be withheld, delayed, or denied and/or this Agreement suspended until the Sub-grantee is current in its payments and has submitted proof of such payment to the State.
- C. The Sub-grantee warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify IHCDA of any such actions. During the term of such actions, the Sub-grantee agrees that IHCDA may suspend funding under this Agreement. If a valid dispute exists as to the Sub-grantee's liability or guilt in any action initiated by the State or its agencies, and IHCDA decides to suspend funding to the Sub-grantee, the Sub-grantee may submit, in writing, a request for review to the Indiana Department of Administration (IDOA). A determination by IDOA shall be binding on the parties. Any disbursements that IHCDA may delay, withhold, deny, or apply under this section shall not be subject to penalty or interest.
- D. The Sub-grantee warrants that the Sub-grantee and any contractors performing work in connection with this Agreement shall obtain and maintain all required permits, licenses, registrations, and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for IHCDA. Failure to do so may be deemed a material breach of this Agreement and grounds for immediate termination and denial of grant opportunities with IHCDA.
- E. The Sub-grantee affirms that, if it is an entity described in IC Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.

- F. As required by IC §5-22-3-7:
- 1) The Sub-grantee and any principals of the Sub-grantee certify that:
    - A. the Sub-grantee, except for de minimis and nonsystematic violations, has not violated the terms of:
      - i. IC §24-4.7 [Telephone Solicitation Of Consumers];
      - ii. IC §24-5-12 [Telephone Solicitations]; or
      - iii. IC §24-5-14 [Regulation of Automatic Dialing Machines];in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
    - B. the Sub-grantee will not violate the terms of IC §24-4.7 for the duration of this Agreement, even if IC §24-4.7 is preempted by federal law.
  - 2) The Sub-grantee and any principals of the Sub-grantee certify that an affiliate or principal of the Sub-grantee and any agent acting on behalf of the Sub-grantee or on behalf of an affiliate or principal of the Sub-grantee, except for de minimis and nonsystematic violations,
    - A. has not violated the terms of IC §24-4.7 in the previous three hundred sixty-five (365) days, even if IC §24-4.7 is preempted by federal law; and
    - B. will not violate the terms of IC §24-4.7 for the duration of this Agreement even if IC §24-4.7 is preempted by federal law.
- G. The Sub-grantee shall also comply with all applicable federal guidance including, without limitation:
- 10 C.F.R. Part 440, as amended;
  - 10 C.F.R. Part 440, Appendix A;
  - 10 C.F.R. Part 600, as amended;
  - OMB Circular A-110;
  - OMB Circular A-122; and
  - OMB Circular A-133.

## **22. LOBBYING ACTIVITIES**

- A. Pursuant to 31 U.S.C. § 1352, and any regulations promulgated there under, including 10 C.F.R. Part 601, Sub-grantee hereby assures that no federally appropriated funds have been paid, or will be paid, by or on behalf of Sub-grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress, in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative Agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative Agreement.
- B. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of

any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this Agreement, Sub-grantee shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying." If Sub-grantee is required to submit Standard Form-LLL, the form and instructions for preparation of the form may be obtained from IHCDCA.

- C. Sub-grantee shall require that the language of this certification be included in the award document for sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
- D. The foregoing certification is a material representation of fact upon which reliance was or will be placed when entering into this Agreement and any transactions with IHCDCA. Submission of this certification is a prerequisite for making or entering into any transaction as imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **23. DEBARMENT AND SUSPENSION**

Sub-grantee certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any Federal or State department or agency. The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Sub-grantee.

### **24. CONFLICT OF INTEREST**

Sub-grantee agrees to comply with applicable provisions of the OMB Circular A-110 and "The Common Rule," regarding conflicts of interest. Sub-grantee further acknowledges and agrees that no employee, agent, representative, or subcontractor of Sub-grantee who may be in a position to participate in the decision-making process of Sub-grantee or its subcontractors may derive an inappropriate personal or financial interest or benefit from any activity funded through this Agreement, either for himself or for those with whom he has family or business ties. Further, Sub-grantee agrees to maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts and comply with 45 CFR 74.42.

### **25. ENVIRONMENTAL TOBACCO SMOKE**

Sub-grantee certifies that it will comply with applicable provisions of the Pro-Children Act of 1994 (20 U.S.C. § 6081 *et seq.*), which require that smoking not be permitted in any portion of any indoor facility owned, leased, or contracted for by Sub-grantee and which is used routinely or regularly for the provision of health, day care, education, or library services to children under the age of eighteen (18) years if the services are funded by federal programs either directly or through states or local

governments by federal grant, contract, loan, or loan guarantee. This provision shall not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions of facilities used for inpatient drug or alcohol treatment.

#### **26. BUY AMERICAN ACT**

Sub-grantee acknowledges the intent of the Congress of the United States that only American-made equipment and products should be purchased with funds provided through this Agreement. Therefore, in expending the funds provided hereunder, Sub-grantee agrees to comply with 41 U.S.C. §§ 10a-10d, known as the "Buy American Act."

#### **27. AUTHORITY TO BIND**

Notwithstanding anything in this Agreement to the contrary, the signatory for the Sub-grantee represents that s/he has been duly authorized to execute this Agreement on its behalf.

#### **28. SEVERABILITY**

The invalidity of any section, subsection, clause, or provision of this Agreement shall not affect the validity of the remaining sections, subsections, clauses, or provisions of the Agreement.

#### **29. REMEDIES NOT IMPAIRED**

No delay or omission by IHCD A in exercising any right or remedy available under this Agreement shall impair any such right or remedy, or constitute a waiver of any default or any acquiescence thereto.

#### **30. WAIVER OF RIGHTS**

No right conferred on either party under this Agreement shall be deemed waived, and no breach of this Agreement excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.

#### **31. TAXES**

The IHCD A is exempt from state, Federal, and local taxes. The IHCD A will not be responsible for any taxes levied on the Sub-grantee as a result of this Agreement.

#### **32. LEAD-BASED PAINT**

Sub-grantee agrees to comply with applicable provisions of the Toxic Substances Control Act (15 U.S.C. § 2681 et seq.), and implementing regulations at 40 C.F.R. Part 745 and any other applicable regulations. Sub-grantee further agrees to comply with the EPA issued Lead Renovation, Repair, and Painting Rule (EPA Rule 40 CFR Part 745) effective April 22, 2010.

**33. NONDISCRIMINATION UNDER PROGRAMS RECEIVING FEDERAL ASSISTANCE**

In accordance with 45 CFR Part 80, Sub-grantee agrees that no person shall; on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving funds provided through this Agreement.

**34. EQUAL EMPLOYMENT OPPORTUNITY**

Sub-grantee agrees to comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

**35. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE.**

Sub-grantee agrees to comply with 45 CFR 86 which effectuates title IX of the Education Amendments of 1972, as amended by Pub. L. 93-568, 88 Stat. 1855 (except sections 904 and 906 of those Amendments) which is designed to eliminate (with certain exceptions) discrimination on the basis of sex in any education program or activity receiving Federal financial assistance, whether or not such program or activity is offered or sponsored by an educational institution.

**36. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

In accordance with 45 CFR Part 84, Sub-grantee agrees that no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program receiving funds provided through this Agreement.

**37. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE**

In accordance with 45 CFR Part 91, Sub-grantee agrees that no person shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity receiving funds provided through this Agreement.

**38. TRAFFICKING VICTIMS PROTECTION ACT OF 2000, AS AMENDED (22 U.S.C. 7104)**

The Sub-grantee agrees to comply with Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended.

### **39. FEDERAL FINANCIAL ACCOUNTABILITY AND TRANSPARENCY ACT OF 2006 (“FFATA”) REPORTING REQUIREMENTS**

FFATA reporting requirements will apply to any funding awarded by IHCD A under this Agreement in the amount of \$25,000 or greater. The Sub-grantee, as a sub-recipient must provide any information needed pursuant to these requirements. This includes entity information, the unique identifier of the Sub-grantee, the unique identifier of Sub-grantee’s parent, and relevant executive compensation data, if applicable (see subsection C below regarding executive compensation data).

#### **A. Data Universal Numbering System (DUNS) number**

Pursuant to FFATA reporting requirements and in order to receive funding under this Agreement, the Sub-grantee shall provide IHCD A with a valid Dun & Bradstreet (“D&B”) Data Universal Numbering System (“DUNS”) number that identifies the Sub-grantee. Accordingly, the Sub-grantee shall register for and obtain a DUNS number within fifteen (15) days of execution of this Agreement if it does not currently have a DUNS number. A DUNS number may be requested from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

#### **B. System for Award Management (SAM)**

The Sub-grantee shall register in the System for Award Management (SAM), which is the primary registrant database for the U.S. Federal Government, and shall enter any information required by FFATA into the SAM, update the information at least annually after the initial registration, and maintain its status in the SAM through the Term of this Agreement. Information regarding the process to register in the SAM can be obtained at <https://www.sam.gov/portal/public/SAM/>.

#### **C. Executive Compensation**

The Sub-grantee shall report the names and total compensation of the five (5) most highly compensated officers of Sub-grantee in SAM **if** the Sub-grantee in the preceding fiscal year received eighty percent (80%) or more of its annual gross revenues from Federal contracts and Federal financial assistance (as defined at 2 CFR 170.320) **and** \$25,000,000 or more in annual gross revenues from Federal contracts and federal financial assistance (as defined at 2 CFR 170.320); **and** if the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. The Sub-grantee may certify that it received less than eighty percent (80%) of annual gross revenues from the federal government, received less than \$25,000,000 of its annual gross revenues from the federal government, already provides executive compensation to the Securities Exchange Commission, or meets the Internal Revenue Code exemption, and will not be required to submit executive compensation data into the SAM under FFATA, provided, that the Sub-grantee shall still register and submit the other data requested.

#### **40. EQUAL TREATMENT FOR FAITH-BASED ORGANIZATIONS**

In accordance with 45 CFR 87, The Sub-grantee agrees not to engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with financial assistance provided under this Agreement. If the Sub-grantee conducts such activities, the activities must be offered separately, in time or location, from the programs or services funded with direct financial assistance under this Agreement, participation must be voluntary for beneficiaries of the programs or services funded with such assistance.

#### **41. FEDERAL PARTICIPATION**

Pursuant to Pub. L. 103-333, 108 Stat. 2573, when issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing the activities funded through this Agreement, Sub-grantee shall clearly state:

1. The percentage of the total costs of the program or project which will be financed with federal funds;
2. The dollar amount of federal funds for the project or program; and
3. The percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

#### **42. MEANINGFUL ACCESS TO LIMITED ENGLISH PROFICIENT PERSONS**

Persons who, as a result of national origin, do not speak English as their primary language and who have limited ability to speak, read, write, or understand English (“limited English proficient persons” or “LEP”) may be entitled to language assistance under Title VI in order to receive a particular service, benefit, or encounter. In accordance with Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, the Sub-grantee agrees to take reasonable steps to ensure meaningful access to weatherization services for LEP persons. Any of the following actions could constitute “reasonable steps”, depending on the circumstances: acquiring translators to translate vital documents, advertisements, or notices, acquiring interpreters for face to face interviews with LEP persons, placing advertisements and notices in newspapers that serve LEP persons, partnering with other organizations that serve LEP populations to provide interpretation, translation, or dissemination of information regarding the project, hiring bilingual employees or volunteers for outreach and intake activities, contracting with a telephone line interpreter service, etc.

#### **43. EMPLOYEE ELIGIBILITY VERIFICATION**

The Sub-grantee affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

#### **44. QUALIFIED ALIENS**

Qualified Aliens (“as defined below”) are eligible to receive energy assistance benefits. The following persons are considered “Qualified Aliens”:

1. Legal Permanent Residents
2. Asylees
3. Refugees
4. Aliens paroled into the U.S. for at least one year
5. Aliens whose deportations are being withheld
6. Aliens granted conditional entry (prior to April 1, 1980)
7. Battered alien spouses, battered alien children, the alien parents of battered children, and alien children of battered parents who fit certain criteria
8. Cuban/Haitian entrants; and
9. Victims of a severe form of trafficking

Qualified Aliens must be documented in accordance with the procedures set forth in Section 301 of the Indiana Low Income Home Energy Assistance Program Operations Manual, located on IHCD's Partner Website.

#### **45. EMPLOYEE ELIGIBILITY VERIFICATION**

The Sub-grantee affirms under the penalties of perjury that he/she/it does not knowingly employ an unauthorized alien.

#### **46. ADDITIONAL FEDERAL REQUIREMENTS**

The Sub-grantee must comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). (For contracts, subcontracts, and subgrants of amounts in excess of \$100,000).

#### **47. COPYRIGHTS**

IHCDA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use:

- (a) The copyright in any work developed under a grant, subgrant, or contract under a grant or subgrant; and
- (b) Any rights of copyright to which a sub-grantee, sub-grantee or a contractor purchases ownership with grant support.

#### **48. AUTHORITY TO BIND**

The signatory for the Sub-grantee represents that he/she has been duly authorized to execute this Agreement on behalf of the Sub-grantee and has obtained all necessary or applicable approvals to make this Agreement fully binding upon the Sub-grantee when his/her signature is affixed, and accepted by IHCD.

#### **49. SUB-GRANTEE AFFIRMATION CLAUSE**

The signatory for Sub-grantee hereby affirms, under the penalty of perjury, that Sub-grantee has not altered, modified, or changed any section, paragraph, or clause of this document, in the form transmitted by IHCD to Sub-grantee for signature, without prior written approval of IHCD.

**50. PROCEDURE TO ENSURE THAT HOMES THAT HAVE RECEIVED WEATHERIZATION SERVICES WITHIN FIVE YEARS OF THE CURRENT LIHEAP PROGRAM YEAR ARE NOT RE-WEATHERIZED**

The Sub-grantee shall not provide weatherization services to any home until it determines whether previous weatherization services have been provided. Sub-grantees may provide weatherization services to a dwelling unit previously weatherized provided that it was at least five (5) years prior to the beginning of the current LIHEAP program year. Example: The Current LIHEAP grant year starts 10/1/14; five (5) years prior to this date is 10/1/09 – the home would have to have received weatherization services through LIHEAP prior to 10/1/09 to be eligible for weatherization services utilizing LIHEAP current year funds.

The Sub-grantee agrees to take the following actions in order to ensure that homes that have received weatherization services within 5 years prior to the beginning of the current LIHEAP program year are not re-weatherized: 1) enter each client's address into IWAP, which will identify whether the client's home has been weatherized; (2) ask each client whether his or her home has been weatherized; and (3) perform a visual inspection on each home to identify whether previous weatherization measures have been performed and if an auditor suspects that weatherization services have previously been rendered in a home, he or she must check with the local agency that has historically provided weatherization services to that area in order to inquire about any records pertaining to any services previously provided. Sub-grantee must fully cooperate with any inquires of this type from IHEDA, or from any weatherization service provider. Sub-grantee's failure to comply with any such request could result in immediate suspension of payments under this Agreement or termination of this Agreement.

**51. DOE MANDATORY FLOW DOWN PROVISIONS[TO BE INCORPORATED INTO ALL SUBGRANTS AND SUBCONTRACTS].**

The Sub-grantee agrees to abide by the following provisions and incorporate them into all of its subgrants and/or subcontracts:

**A. DEFINITIONS**

For subsections B – S of Section 51 of this Agreement, Recipient shall mean the above-referenced Sub-grantee and any of its subcontractors receiving funding under this Agreement.

**B. RESOLUTION OF CONFLICTING CONDITIONS**

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this Agreement must be referred to the DOE Contracting Officer for guidance.

**C. STATEMENT OF FEDERAL STEWARDSHIP**

DOE will exercise normal Federal stewardship in overseeing the project activities performed under this Agreement. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the

project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

#### **D. SITE VISITS**

DOE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Recipient must provide, and must require any sub-awardees to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

#### **E. REPORTING REQUIREMENTS**

The reporting requirements for this award are identified in this Agreement. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

#### **F. PUBLICATIONS**

a. Recipient or its subcontractor may publish or otherwise make publicly available the results of the work conducted under this Agreement.

b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy under Award Number DE-EE0006152."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

#### **G. FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS**

Recipient or its subcontractors must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this Agreement.

#### **H. INTELLECTUAL PROPERTY PROVISIONS**

a) Recipient or its subcontractors may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under an award. DOE reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes and to authorize others to do so.

(b) Recipient and its subcontractors are subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

(c) The DOE has the right to:

(1) Obtain, reproduce, publish or otherwise use the data first produced under an award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

#### **I. LOBBYING RESTRICTIONS**

By accepting funds under this Agreement, Recipient and its subcontractors agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

#### **J. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Agreement should be American-made.

#### **K. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS**

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the Recipient or its subcontractors for (i) Decontamination and/or Decommissioning (D&D) of any of the Recipient's or subcontractor's facilities, or (ii) any costs which may be incurred by the Recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

#### **L. HISTORIC PRESERVATION**

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places.

Section 110(k) of the NHPA applies to DOE funded activities. Recipient shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

#### **M. EQUAL OPPORTUNITY**

Recipient and its subcontractors shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60). *(All construction contracts awarded in excess of \$10,000 by Sub-grantees and its contractors or subSub-grantees)*

#### **N. COPELAND ANTI-KICKBACK ACT**

Recipient and its subcontractors shall comply with the Copeland Anti-Kickback Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient must report all suspected or reported violations to the Act to IHCD. *(All contracts and subgrants for construction or repair)*

#### **O. CONTRACT WORK HOURS AND SAFETY STANDARDS**

For any contracts awarded by Recipient in excess of \$100,000 for construction and other purposes that involve the employment of mechanics or laborers must include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5).

#### **P. CLEAN WATER ACT AND RELATED PROVISIONS**

Recipient and its subcontractors shall comply with all applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15). *(Contracts, subcontracts, and subgrants of amounts in excess of \$100,000).*

#### **Q. ENERGY POLICY AND CONSERVATION ACT**

Recipient and its subcontractors shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

#### **R. DEBARMENT AND SUSPENSION**

Recipient certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any Federal or State department or agency. The term "principal" for purposes of this Agreement is defined as an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of Sub-grantee.

#### **S. ACCESS TO RECORDS**

Recipient and its subcontractors shall grant access by the IHCD, and the DOE, the Comptroller General of the United States, or any of their duly authorized representatives to any books,

documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

**T. RECORDS RETENTION**

Recipient and its subcontractors shall retain all required records for three (3) years after Recipient or its subcontractor or subrecipients make final payments and all other pending matters are closed.

### NON-COLLUSION AND ACCEPTANCE

The undersigned attests, subject to the penalties for perjury, that he/she is the Sub-grantee, or that he/she is the properly authorized representative, agent, member or officer of the Sub-grantee, that he/she has not, nor has any other member, employee, representative, agent or officer of the Sub-grantee, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Agreement other than that which appears upon the face of this Agreement.

**In Witness Whereof**, Sub-grantee and the IHCD A have, through their duly authorized representatives, entered into this Agreement. The parties, having read and understood the foregoing terms of this Agreement, do by their respective signatures dated below hereby agree to the terms thereof.

**NAME: Community Action Agency**

WL-015-0XX

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Indiana Housing and Community Development Authority**

By: \_\_\_\_\_

Printed Name: J. Jacob Sipe

Title: Executive Director

Date: \_\_\_\_\_

**ATTACHMENT A**  
**September 30, 2014**

**Agency's Legal Name:** Community Action Agency.

**Agency's Mailing Address:** \_\_\_\_\_

**Agency Grant Contact:** \_\_\_\_\_

**Agency Phone and Email:** \_\_\_\_\_

**Funding Program:** LIHEAP WX 2015

**Statutory Information:** 42 U.S.C. § 8621 et seq., § 8626a, § 6861, 1397a(d), 45 C.F.R.  
§96.72, and 45 C.F.R. § 96.85

**CFDA Number:** 93.568

**IHCDA Grant Number:** WL-015-0XX

**Grant Effective Date:** 10/1/2014 – 9/30/2015

**Total Grant Amount:** \$00.00

**Service Area:** \_\_\_\_\_

**Close out Date** (45 days following the close of the grant): 11/15/2015

**IHCDA Grant Contact:** Pamela Emery, Community Programs Analyst-Weatherization

**IHCDA Phone and Email:** 317-233-5380, pemery@ihcda.in.gov

<b>Activity Description</b>	<b>Amount</b>
.1 Administration (up to 6.753% of program expenditures)	Actual Costs
.2 Liability Insurance	Actual Costs
.3 Supplies	Actual Costs
.4 Equipment	Actual Costs
.5 Base Program Operations	Actual Costs
.6 Mechanical Operations	Actual Costs
.7 Capital Intensive Operations	Actual Costs
<b>TOTAL GRANT AMOUNT</b>	<b>\$00.00</b>